

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MARIA BARROUS, an individual and as
Trustee of the Barrous Living Trust,
DEMETROIS BARROUS, an individual, dba
Jimmy's Restaurant,

Plaintiffs,

v.

BP P.L.C., BP EXPLORATION AND OIL,
INC., BP PRODUCTS NORTH AMERICA,
INC., BP CORPORATION NORTH
AMERICA, INC., CONOCOPHILLIPS
COMPANY and DOES 1-20, inclusive,

Defendants.

Case No.: 10-CV-02944-LHK

ORDER GRANTING-IN-PART AND
DENYING-IN-PART MOTION TO FILE
UNDER SEAL

Now before the Court is Defendants' administrative motion to file certain documents under seal, ECF No. 109.

Defendants' motion seeks to seal Exhibits H-L to the declaration of Steve Ellenberg, ECF No. 97, on the basis that all of the exhibits have been marked "confidential" pursuant to the Court's protective order, ECF No. 69. Defendants argue that Exhibits H and I contain confidential and sensitive business information and that Exhibits I-L are confidential settlement communications. The Court has reviewed the documents and rules as follows.

Exhibit H contains the "Agreement for the Purchase and Sale of Assets Between BP Exploration & Oil Inc. and Tosco Corporation," dated June 1994. Although the document is marked "Highly Confidential – Attorney's Eyes Only," Defendants have redesignated them as "confidential." The Court agrees with Plaintiffs that the document is not confidential in its entirety, but agrees with Defendants that the financial terms of the agreement are confidential. The

1 Court therefore orders the parties to meet and confer and determine which parts of the agreement
2 are confidential. Plaintiffs will then file a redacted version on ECF and file the unredacted version
3 under seal by October 4, 2011.

4 Exhibit I contains "Schedule O, Environmental Provisional" which governs the liability of
5 BP Products and COP for environmental issues on the properties sold pursuant to the 1994
6 Agreement. The Court finds that this document is a confidential settlement agreement, and
7 therefore GRANTS Defendants' motion with regard to Exhibit I.

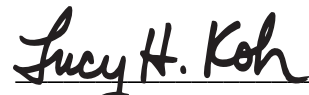
8 Exhibit J contains a letter from Scott Hootoon (BP Oil Company) to David Camille (Tosco)
9 dated December 14, 2011, which, according to Defendants, documents a dispute between BP
10 Products and COP concerning environmental liability under Schedule O. Defendants contend this
11 letter is the initiating document for settlement communications, but there is no evidence in the
12 letter of an offer to settle the dispute; rather it appears to be a demand letter initiating the dispute
13 and seeking indemnification. The Court therefore DENIES the motion with respect to Exhibit J
14 and orders Plaintiffs to file this document on ECF.

15 Exhibit K-L are presentations allegedly made at a settlement meeting with a third-party
16 neutral. The Court agrees that these are confidential settlement discussions. Thus, the Court
17 GRANTS Defendants' motion with regard to Exhibits K-L.

18 Accordingly, Defendants' motion is GRANTED in part and DENIED in part.

19
20 **IT IS SO ORDERED.**

21
22
23 Dated: September 30, 2011



LUCY H. KOH
United States District Judge